



Agricultural Tenancies Act 1995

1995 CHAPTER 8

PART III

COMPENSATION ON TERMINATION OF FARM BUSINESS TENANCY

Tenant's entitlement to compensation

15 Meaning of “tenant’s improvement”

For the purposes of this Part of this Act a “tenant’s improvement”, in relation to any farm business tenancy, means—

- (a) any physical improvement which is made on the holding by the tenant by his own effort or wholly or partly at his own expense, or
- (b) any intangible advantage which—
 - (i) is obtained for the holding by the tenant by his own effort or wholly or partly at his own expense, and
 - (ii) becomes attached to the holding,

and references to the provision of a tenant’s improvement are references to the making by the tenant of any physical improvement falling within paragraph (a) above or the obtaining by the tenant of any intangible advantage falling within paragraph (b) above.

16 Tenant’s right to compensation for tenant’s improvement

- (1) The tenant under a farm business tenancy shall, subject to the provisions of this Part of this Act, be entitled on the termination of the tenancy, on quitting the holding, to obtain from his landlord compensation in respect of any tenant’s improvement.
- (2) A tenant shall not be entitled to compensation under this section in respect of—
 - (a) any physical improvement which is removed from the holding, or
 - (b) any intangible advantage which does not remain attached to the holding.
- (3) Section 13 of, and Schedule 1 to, the Agriculture Act 1986 (compensation to outgoing tenants for milk quota) shall not apply in relation to a farm business tenancy.

Conditions of eligibility

17 Consent of landlord as condition of compensation for tenant's improvement

- (1) A tenant shall not be entitled to compensation under section 16 of this Act in respect of any tenant's improvement unless the landlord has given his consent in writing to the provision of the tenant's improvement.
- (2) Any such consent may be given in the instrument creating the tenancy or elsewhere.
- (3) Any such consent may be given either unconditionally or on condition that the tenant agrees to a specified variation in the terms of the tenancy.
- (4) The variation referred to in subsection (3) above must be related to the tenant's improvement in question.
- (5) This section does not apply in any case where the tenant's improvement consists of planning permission.

18 Conditions in relation to compensation for planning permission

- (1) A tenant shall not be entitled to compensation under section 16 of this Act in respect of a tenant's improvement which consists of planning permission unless—
 - (a) the landlord has given his consent in writing to the making of the application for planning permission,
 - (b) that consent is expressed to be given for the purpose—
 - (i) of enabling a specified physical improvement falling within paragraph (a) of section 15 of this Act lawfully to be provided by the tenant, or
 - (ii) of enabling the tenant lawfully to effect a specified change of use, and
 - (c) on the termination of the tenancy, the specified physical improvement has not been completed or the specified change of use has not been effected.
- (2) Any such consent may be given either unconditionally or on condition that the tenant agrees to a specified variation in the terms of the tenancy.
- (3) The variation referred to in subsection (2) above must be related to the physical improvement or change of use in question.

19 Reference to arbitration of refusal or failure to give consent or of condition attached to consent

- (1) Where, in relation to any tenant's improvement, the tenant under a farm business tenancy is aggrieved by—
 - (a) the refusal of his landlord to give his consent under section 17(1) of this Act,
 - (b) the failure of his landlord to give such consent within two months of a written request by the tenant for such consent, or
 - (c) any variation in the terms of the tenancy required by the landlord as a condition of giving such consent,

the tenant may by notice in writing given to the landlord demand that the question shall be referred to arbitration under this section; but this subsection has effect subject to subsections (2) and (3) below.

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- (2) No notice under subsection (1) above may be given in relation to any tenant's improvement which the tenant has already provided or begun to provide, unless that improvement is a routine improvement.
- (3) No notice under subsection (1) above may be given—
 - (a) in a case falling within paragraph (a) or (c) of that subsection, after the end of the period of two months beginning with the day on which notice of the refusal or variation referred to in that paragraph was given to the tenant, or
 - (b) in a case falling within paragraph (b) of that subsection, after the end of the period of four months beginning with the day on which the written request referred to in that paragraph was given to the landlord.
- (4) Where the tenant has given notice under subsection (1) above but no arbitrator has been appointed under an agreement made since the notice was given, the tenant or the landlord may apply to the President of the RICS, subject to subsection (9) below, for the appointment of an arbitrator by him.
- (5) The arbitrator shall consider whether, having regard to the terms of the tenancy and any other relevant circumstances (including the circumstances of the tenant and the landlord), it is reasonable for the tenant to provide the tenant's improvement.
- (6) Subject to subsection (9) below, the arbitrator may unconditionally approve the provision of the tenant's improvement or may withhold his approval, but may not give his approval subject to any condition or vary any condition required by the landlord under section 17(3) of this Act.
- (7) If the arbitrator gives his approval, that approval shall have effect for the purposes of this Part of this Act and for the purposes of the terms of the farm business tenancy as if it were the consent of the landlord.
- (8) In a case falling within subsection (1)(c) above, the withholding by the arbitrator of his approval shall not affect the validity of the landlord's consent or of the condition subject to which it was given.
- (9) Where, at any time after giving a notice under subsection (1) above in relation to any tenant's improvement which is not a routine improvement, the tenant begins to provide the improvement—
 - (a) no application may be made under subsection (4) above after that time,
 - (b) where such an application has been made but no arbitrator has been appointed before that time, the application shall be ineffective, and
 - (c) no award may be made by virtue of subsection (6) above after that time except as to the costs of the reference and award in a case where the arbitrator was appointed before that time.
- (10) For the purposes of this section—

“fixed equipment” includes any building or structure affixed to land and any works constructed on, in, over or under land, and also includes anything grown on land for a purpose other than use after severance from the land, consumption of the thing grown or its produce, or amenity;

“routine improvement”, in relation to a farm business tenancy, means any tenant's improvement which—

 - (a) is a physical improvement made in the normal course of farming the holding or any part of the holding, and

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(b) does not consist of fixed equipment or an improvement to fixed equipment,
but does not include any improvement whose provision is prohibited by the terms of the tenancy.

Amount of compensation

20 Amount of compensation for tenant’s improvement not consisting of planning permission

- (1) The amount of compensation payable to the tenant under section 16 of this Act in respect of any tenant’s improvement shall be an amount equal to the increase attributable to the improvement in the value of the holding at the termination of the tenancy as land comprised in a tenancy.
- (2) Where the landlord and the tenant have entered into an agreement in writing whereby any benefit is given or allowed to the tenant in consideration of the provision of a tenant’s improvement, the amount of compensation otherwise payable in respect of that improvement shall be reduced by the proportion which the value of the benefit bears to the amount of the total cost of providing the improvement.
- (3) Where a grant has been or will be made to the tenant out of public money in respect of a tenant’s improvement, the amount of compensation otherwise payable in respect of that improvement shall be reduced by the proportion which the amount of the grant bears to the amount of the total cost of providing the improvement.
- (4) Where a physical improvement which has been completed or a change of use which has been effected is authorised by any planning permission granted on an application made by the tenant, section 18 of this Act does not prevent any value attributable to the fact that the physical improvement or change of use is so authorised from being taken into account under this section in determining the amount of compensation payable in respect of the physical improvement or in respect of any intangible advantage obtained as a result of the change of use.
- (5) This section does not apply where the tenant’s improvement consists of planning permission.

21 Amount of compensation for planning permission

- (1) The amount of compensation payable to the tenant under section 16 of this Act in respect of a tenant’s improvement which consists of planning permission shall be an amount equal to the increase attributable to the fact that the relevant development is authorised by the planning permission in the value of the holding at the termination of the tenancy as land comprised in a tenancy.
- (2) In subsection (1) above, “the relevant development” means the physical improvement or change of use specified in the landlord’s consent under section 18 of this Act in accordance with subsection (1)(b) of that section.
- (3) Where the landlord and the tenant have entered into an agreement in writing whereby any benefit is given or allowed to the tenant in consideration of the obtaining of planning permission by the tenant, the amount of compensation otherwise payable in respect of that permission shall be reduced by the proportion which the value of the benefit bears to the amount of the total cost of obtaining the permission.

22 Settlement of claims for compensation

- (1) Any claim by the tenant under a farm business tenancy for compensation under section 16 of this Act shall, subject to the provisions of this section, be determined by arbitration under this section.
- (2) No such claim for compensation shall be enforceable unless before the end of the period of two months beginning with the date of the termination of the tenancy the tenant has given notice in writing to his landlord of his intention to make the claim and of the nature of the claim.
- (3) Where—
 - (a) the landlord and the tenant have not settled the claim by agreement in writing, and
 - (b) no arbitrator has been appointed under an agreement made since the notice under subsection (2) above was given,either party may, after the end of the period of four months beginning with the date of the termination of the tenancy, apply to the President of the RICS for the appointment of an arbitrator by him.
- (4) Where—
 - (a) an application under subsection (3) above relates wholly or partly to compensation in respect of a routine improvement (within the meaning of section 19 of this Act) which the tenant has provided or has begun to provide, and
 - (b) that application is made at the same time as an application under section 19(4) of this Act relating to the provision of that improvement,the President of the RICS shall appoint the same arbitrator on both applications and, if both applications are made by the same person, only one fee shall be payable by virtue of section 30(2) of this Act in respect of them.
- (5) Where a tenant lawfully remains in occupation of part of the holding after the termination of a farm business tenancy, references in subsections (2) and (3) above to the termination of the tenancy shall, in the case of a claim relating to that part of the holding, be construed as references to the termination of the occupation.

Supplementary provisions with respect to compensation

23 Successive tenancies

- (1) Where the tenant under a farm business tenancy has remained in the holding during two or more such tenancies, he shall not be deprived of his right to compensation under section 16 of this Act by reason only that any tenant's improvement was provided during a tenancy other than the one at the termination of which he quits the holding.
- (2) The landlord and tenant under a farm business tenancy may agree that the tenant is to be entitled to compensation under section 16 of this Act on the termination of the tenancy even though at that termination the tenant remains in the holding under a new tenancy.
- (3) Where the landlord and the tenant have agreed as mentioned in subsection (2) above in relation to any tenancy ("the earlier tenancy"), the tenant shall not be entitled to compensation at the end of any subsequent tenancy in respect of any tenant's

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improvement provided during the earlier tenancy in relation to the land comprised in the earlier tenancy.

24 Resumption of possession of part of holding

(1) Where—

- (a) the landlord under a farm business tenancy resumes possession of part of the holding in pursuance of any provision of the tenancy, or
- (b) a person entitled to a severed part of the reversionary estate in a holding held under a farm business tenancy resumes possession of part of the holding by virtue of a notice to quit that part given to the tenant by virtue of section 140 of the Law of Property Act 1925,

the provisions of this Part of this Act shall, subject to subsections (2) and (3) below, apply to that part of the holding (in this section referred to as “the relevant part”) as if it were a separate holding which the tenant had quitted in consequence of a notice to quit and, in a case falling within paragraph (b) above, as if the person resuming possession were the landlord of that separate holding.

- (2) The amount of compensation payable to the tenant under section 16 of this Act in respect of any tenant’s improvement provided for the relevant part by the tenant and not consisting of planning permission shall, subject to section 20(2) to (4) of this Act, be an amount equal to the increase attributable to the tenant’s improvement in the value of the original holding on the termination date as land comprised in a tenancy.
- (3) The amount of compensation payable to the tenant under section 16 of this Act in respect of any tenant’s improvement which consists of planning permission relating to the relevant part shall, subject to section 21(3) of this Act, be an amount equal to the increase attributable to the fact that the relevant development is authorised by the planning permission in the value of the original holding on the termination date as land comprised in a tenancy.
- (4) In a case falling within paragraph (a) or (b) of subsection (1) above, sections 20 and 21 of this Act shall apply on the termination of the tenancy, in relation to the land then comprised in the tenancy, as if the reference in subsection (1) of each of those sections to the holding were a reference to the original holding.

(5) In subsections (2) to (4) above—

“the original holding” means the land comprised in the farm business tenancy—

- (a) on the date when the landlord gave his consent under section 17 or 18 of this Act in relation to the tenant’s improvement, or
- (b) where approval in relation to the tenant’s improvement was given by an arbitrator, on the date on which that approval was given,

“the relevant development”, in relation to any tenant’s improvement which consists of planning permission, has the meaning given by section 21(2) of this Act, and

“the termination date” means the date on which possession of the relevant part was resumed.

25 Compensation where reversionary estate in holding is severed

- (1) Where the reversionary estate in the holding comprised in a farm business tenancy is for the time being vested in more than one person in several parts, the tenant shall be entitled, on quitting the entire holding, to require that any compensation payable to him under section 16 of this Act shall be determined as if the reversionary estate were not so severed.
- (2) Where subsection (1) applies, the arbitrator shall, where necessary, apportion the amount awarded between the persons who for the purposes of this Part of this Act together constitute the landlord of the holding, and any additional costs of the award caused by the apportionment shall be directed by the arbitrator to be paid by those persons in such proportions as he shall determine.

26 Extent to which compensation recoverable under agreements

- (1) In any case for which apart from this section the provisions of this Part of this Act provide for compensation, a tenant shall be entitled to compensation in accordance with those provisions and not otherwise, and shall be so entitled notwithstanding any agreement to the contrary.
- (2) Nothing in the provisions of this Part of this Act, apart from this section, shall be construed as disentitling a tenant to compensation in any case for which those provisions do not provide for compensation.

27 Interpretation of Part III

In this Part of this Act, unless the context otherwise requires—

“planning permission” has the meaning given by section 336(1) of the Town and Country Planning Act 1990;

“tenant’s improvement”, and references to the provision of such an improvement, have the meaning given by section 15 of this Act.